



REMARKS

The present application includes pending claims 1-57, of which claims 13, 26, and 35-57 have been withdrawn from consideration. Claims 1-12, 14-25, and 27-34 have been rejected. The Applicants respectfully submit that the pending claims define allowable subject matter.

Claims 1-5, 7, 8, 10, 12, 14-18, 20, 21, 23, 25, 27-30, and 33 remain rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 5,336,399 ("Kajisono"). Claims 6, 19, and 31 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Kajisono in view of Official Notice. Claims 9, 22, and 32 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Kajisono in view of United States Patent No. 4,166,086 ("Wright"). Claims 11, 24, and 34 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Kajisono in view of United States Patent No. 3,836,130 ("Earhart"). The Applicants respectfully traverse these rejections at least for the reasons set forth previously during prosecution and hereafter.

I. Kajisono Does Not Anticipate Claims 1, 14, or 27

The Applicants first turn to the rejection of claims 1-5, 7, 8, 10, 12, 14-18, 20, 21, 23, 25, 27-30, and 33 as being anticipated by Kajisono. "A claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *See* Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Further, "[t]he identical invention **must be shown in as complete detail** as it is contained... in the claim." *See id.* (internal citation omitted).

Kajisono discloses an “apparatus for purifying and activating water.” Kajisono at Abstract. The apparatus includes a drive shaft having a hollow inside, a capsule secured to a lower end of the drive shaft, a device for supporting the drive shaft for rotation so that an upper opening of the drive shaft is positioned above the surface of water and the capsule is positioned in the water, and a motor for rotationally driving the drive shaft. *Id.* The capsule includes a plurality of small apertures communicating with the hollow inside of the drive shaft. *Id.* As discussed below, Kajisono does not expressly or inherently describe “every element as set forth” in the claims of the present application.

A. Kajisono Does Not Teach, Nor Suggest, Agitation Members Or Blades Extending From Lateral Surfaces Of A Drive Shaft

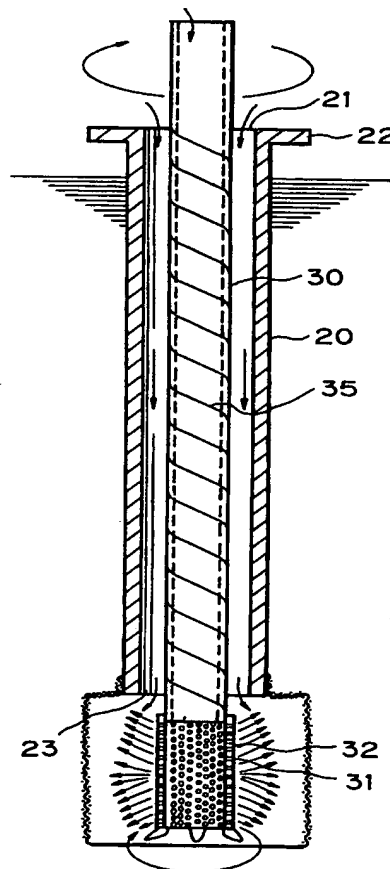
Kajisono does not teach, nor suggest, an “agitator comprising at least one agitation member outwardly extending from a lateral surface of said distal end of said drive shaft” as recited in claim 1, “a blade assembly extending outwardly from said drive shaft” as recited in claim 14, or “an agitator having at least one blade outwardly extending from a lateral surface of said drive shaft” as recited in claim 27. The Office Action states that Kajisono discloses an “agitator comprising at least one agitation member outwardly extending from a lateral surface of said distal end of said drive shaft.” *See* Sept. 29, 2005 Office Action, at p. 3. As support, the Office Action cites Kajisono at column 4, lines 40-50 and Figure 7. Kajisono states the following:

The drive shaft 30 and **capsule** 32 may be formed, for example, from aluminum. The drive shaft 30 and **capsule** 32 **may be connected together**, for example by means of screw connection. Preferably, the diameter of the **capsule** is larger than that of the drive shaft. This is because, as will be explained in more detail below, the **capsule** may serve as

a kind of propeller to cause negative pressure in the vicinity of the lower end of the outer casing when the drive shaft is rotated at a high speed. Accordingly, it is preferable to provide impellers, as shown in FIG. 7, so as to cause increased negative pressure.

Kajisono at column 4, lines 38-49 (emphasis added). Figure 7 is shown below:

Fig. 7



This passage and figure from Kajisono simply do not disclose the aforementioned limitations from claims 1, 14, and 27.

First, Kajisono clearly states that the capsule 32 and drive shaft 30 are connected together. In other words, **the capsule is not part of the drive shaft**, but is connected to

the drive shaft. Claims 1, 14, and 27 recite that the agitation member or blades “outwardly extend[] from . . . said drive shaft.” However, the “members” in Figure 7 indicated by the Examiner in the Office Action to be “impellers” **extend from the capsule 32** (which is separately connected to the drive shaft 30) **and not from the drive shaft 30 itself**. Therefore, Kajisono does not teach, nor suggest, an “agitator comprising at least one agitation member outwardly extending **from . . . said drive shaft**” as recited in claim 1, “a blade assembly extending outwardly **from said drive shaft**” as recited in claim 14, or “an agitator having at least one blade outwardly extending **from . . . said drive shaft**” as recited in claim 27.

Second, the Office Action draws attention to the curved lines downwardly extending from the **bottom of the capsule 32**. Even assuming these curved lines are “impellers” as the Examiner indicates, they certainly do not “outwardly extend[] from a **lateral surface** of . . . said **drive shaft**,” as recited in claims 1 and 27 of the present application. Rather, the ambiguous curved lines shown in Figure 7 extend from a **bottom** of the capsule 32, not from **lateral surfaces** of the capsule 32 -- and certainly not from the lateral surfaces of the drive shaft 30. Therefore, Kajisono does not teach, nor suggest, an “agitator comprising at least one agitation member outwardly extending from a **lateral surface** of said distal end of said drive shaft” as recited in claim 1 or “an agitator having at least one blade outwardly extending from a **lateral surface** of said drive shaft” as recited in claim 27.

B. Kajisono Does Not Teach, Nor Suggest, Agitation Members Or Blades Stirring Water Within The Water Retention Structure

Kajisono does not teach, nor suggest, “said motor configured to rotate said agitator in order to stir water retained within the water retention structure, wherein said at

least one agitation member is operable to stir the water within the water retention structure” as recited in claim 1, “said motor operable to rotate said blade assembly in order to stir water retained within the water retention structure” as recited in claim 14, and “one blade . . . that is rotatably driven by said motor in order to stir water retained within the water retention structure” as recited in claim 27. The Office Action asserts that these limitations are taught in column 4, lines 40-50 and Figure 7 of Kajisono and further extrapolates from the text and figure that “when the impellers/agitation members rotate the water surrounding the impellers/agitation members will be stirred.” *See* Sept. 29, 2005 Office Action, at p. 7.

However, contrary to the assertions of the Office Action, Kajisono simply does not teach, nor suggest, blades **stirring** water within the water retention structure. Rather, Kajisono teaches that the capsule 32 “may serve as a kind of propeller to cause **negative pressure** in the vicinity of the lower end of the outer casing when the drive shaft is rotated” and “it is preferable to provide impellers . . . so as to **cause increased negative pressure.**” Kajimono at col. 4, lines 44-49. In other words, Kajimono discloses impellers that specifically operate to create negative pressure in the capsule 32 in order to draw fluid into the capsule so that bubbles are ejected from apertures within the capsule. Nowhere does Kajimono teach or suggest the limitation of the impellers **stirring water within the water retention structure**, despite the Office Action’s efforts to read such a teaching into the text. Therefore, Kajimono does not teach, nor suggest, all the limitations of claims 1, 14, and 27 and does not anticipate claims 1, 14, and 27.

In sum, Kajisono discloses a system for purifying and activating water that includes a plurality of apertures, *i.e.*, holes, formed in a capsule. Kajisono, however,

does not explicitly describe, or inherently disclose, an “agitator comprising at least one agitation member outwardly extending from a **lateral surface** of said distal end of said **drive shaft**, said motor configured to rotate said agitator in order **to stir water retained within the water retention structure**, wherein said at least one agitation member is operable **to stir the water within the water retention structure**” as recited in claim 1 of the present application. Additionally, Kajisono does not explicitly describe, or inherently disclose, “a **blade assembly** extending outwardly from said **drive shaft**, said motor operable to rotate said blade assembly **in order to stir water retained within the water retention structure**” as recited in claim 14 of the present application. Further, Kajisono does not explicitly describe, or inherently disclose, an “agitator having at least **one blade** outwardly extending from a **lateral surface** of said **drive shaft** that is rotatably driven by said motor **in order to stir water retained within the water retention structure**” as recited in claim 27 of the present application. Thus, at least for these reasons, Kajisono does not anticipate the pending claims of the present application.

C. Kajisono Does Not Teach, Nor Suggest, A “Base Removably Interconnected To A Cover”

Additionally, Kajisono does not explicitly describe, or inherently disclose, “a base removably interconnected to a cover,” as recited in claim 1, “said cover being removably interconnected to said base” as recited in claim 14, or “a base removably secured to a cover” as recited in claim 27. Kajisono simply does not describe a base that snapably, latchably, or otherwise removably engages the cover. Kajisono discloses that “[t]he base plate 10 is provided with a cover 16 for enclosing the motor 40 in a water resistant manner.” *Id.* at column 4, lines 5-6. Kajisono, however, does not explicitly describe, or inherently disclose, a “base removably interconnected to a cover.” Instead,

Kajisono discloses a cover that includes an “inspection hole 80 for allowing an operator to view inside the cover.” *Id.* at column 4, lines 18-22.

While Kajisono shows button-like protrusions extending upwardly from the lip of the cover 16 in Fig. 1, there is **absolutely nothing** in Kajisono to indicate that these protrusions are fasteners and to assert otherwise is pure conjecture. Furthermore, even if one were to assume that these protrusions are fasteners, there is **absolutely nothing** in Kajisono to lead one to believe that these are features that removably interconnect a base to a cover. In order to anticipate a claim, **each and every element** as set forth in the claim must be found in the single prior art reference. MPEP, *supra*. Kajisono simply does not explicitly describe, or inherently disclose, a “base removably interconnected to a cover.” Thus, at least for this reason, Kajisono does not anticipate the pending claims of the present application.

II. Claims 6, 19, And 31 Are Not Obvious In View Of Official Notice

The Office Action asserts that, while Kajisono does not teach the limitation of “a seal member interposed between said cover and said base” as recited in claims 6, 19, and 31, claims 6, 19, and 31 are nonetheless unpatentable over Kajisono in view of Official Notice. The Office Action asserts that it would have been obvious in view of Official Notice to one having ordinary skill in the art at the time of the invention was made to have modified Kajisono’s water agitation system so as to include a seal member interposed between the cover and the base in order to prevent leakage and/or infiltration and thus provide a better seal therebetween. *See* Sept. 29, 2005 Office Action, at p. 6. The Applicants respectfully traverse the assertions of Official Notice as further set forth below. Alternatively, if the assertions are based on the personal knowledge of the

Examiner, then under MPEP § 2144.03(C) and 37 C.F.R. § 1.104(d)(2), the assertions must be supported by an affidavit from the Examiner.

According to MPEP § 2144.03(A), Official Notice, without supporting references, should only be asserted when the subjects asserted to be common knowledge are “capable of instant and unquestionable demonstration as being well-known.” That is, the subjects asserted must be of “notorious character” under MPEP § 2144.03(A). However, the Applicants respectfully submit that the subject matter of the assertion of Official Notice is not well-known in the art as evidenced by the searched and cited prior art. The Applicants respectfully submit that the Examiner has performed “a thorough search of the prior art,” as part of the Examiner’s obligation in examining the present application under MPEP § 904.02.

Additionally, the Applicants respectfully submit that the Examiner’s searched and cited references found during the Examiner’s thorough and detailed search of the prior art are indicative of the knowledge commonly held in the art. However, in the Examiner’s thorough and detailed search of the relevant prior art, none of the prior art taught or suggested the subject matter of the assertion of Official Notice. The Applicants respectfully submit that if the subject matter of the assertion of Official Notice had been of “notorious character” and “capable of instant and unquestionable demonstration as being well-known” under MPEP § 2144.03(A), then the subject matter would have appeared to the Examiner during the Examiner’s thorough and detailed search of the prior art. Consequently, the Applicants respectfully submit that the prior art does not teach the subject matter of the assertion of Official Notice and respectfully traverse the assertion of Official Notice.

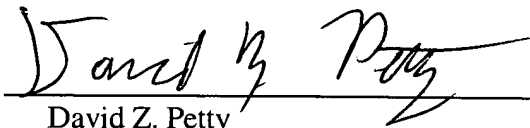
The Applicants specifically challenges the Examiner's assertion of Official Notice with regard to the obviousness of modifying Kajisono's water agitation system so as to include a seal member interposed between the cover and the base. Under MPEP 2144.03, the Examiner is now obligated to provide a reference(s) in support of the assertion of Official Notice if the Examiner intends to maintain any rejection based on the assertion of Official Notice. Additionally, the Applicants respectfully request the Examiner reconsider the assertion of Official Notice and provide to Applicants any basis for the Examiner's assertion of Official Notice.

III. Conclusion

The Applicants respectfully submit that the pending claims of the present application should be in condition for allowance at least for the reasons discussed above, and request reconsideration of the claim rejections. Should anything remain in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the telephone listed below. Please charge any necessary fees or credit any overpayment to Account No. 13-0017.

Respectfully submitted,

Date: November 15, 2005

By: 
David Z. Petty
Reg. No. 52,119
Attorney for Applicants

McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661
Telephone: (312) 775-8000
Facsimile: (312)775-8100